

Employee Defensive Solicitation Program

1. At first blush, the idea appears to be a great attraction and would further appear to be simple of administration. As one dwells on the matter, however, manifold complications arise. In no order of priority or significance, my offhand thoughts are as follows:

a. We have no way of sizing the problem of how many employees will be summoned by what body of inquiry.

b. We have no way of knowing how many of those summoned would desire private counsel.

c. It could well be expected that some private counsel would charge one level of fee if they knew the money was coming out of the employee's wallet. They might well charge a higher level if they knew a "defense fund" was paying the fee.

d. The employee, present or future, may seek a counsel of greater experience and prestige if he knew the "defense fund" would pay and he would not have to.

e. Would the fund consist only of contributions from:

(1) Current employees?

(2) Additionally, former employees?

(3) In addition to the above, contributions that anyone who became aware of the fund would choose to send?

f. Accepting outside funds could be dangerous. A year ago we decided to cease accepting external contributions to the Education Aid Fund to prevent allegations of conflicts of interest.

g. Who would administer this fund?

h. If demand exceeded the monetary supply of the fund, difficult decisions would have to be made as to who got how much depending on the fees charged by individual counsel.

2. I, as an individual, am not yet voting against considering the idea, I am pointing out, however, we are starting on a very complex and controversial path that we had best think through as clearly and thoroughly as possible before committing ourselves.

3. I have never yet seen a better qualified issue to be referred for Management Committee discussion.